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ORBITZ WORLDWIDE, INC. and  
ORBITZ, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

CEATS, INC., a Nevada corporation,  
Plaintiff,

v.

ORBITZ WORLDWIDE, INC., a Delaware  
corporation, and ORBITZ, LLC, a Delaware  
limited liability company,  
Defendants.

Case No. 13-cv-01385-MMD-VCF

**ORDER GOVERNING  
COLLECTION AND PRODUCTION OF  
ELECTRONICALLY STORED  
INFORMATION**

Honorable Miranda M. Du

1 Pursuant to the Court's December, 11, 2013, Order (ECF No. 49), Defendants Orbitz  
2 Worldwide, Inc. ("Orbitz Worldwide") and Orbitz, LLC ("Orbitz, LLC") (collectively  
3 "Defendants") hereby submit this proposed order governing collection of production of  
4 electronically stored information.

5 **1. ESI Production Format.** Absent agreement of the parties or further order of this  
6 court, the following parameters shall apply to ESI productions: each production will be  
7 provided in TIFF format with a resolution of not less than 300 DPI, with a Bates-like  
8 numbering stamp, and any necessary confidentiality legend/stamp. The parties have no  
9 obligation to create or manually code fields that are not automatically generated by the  
10 processing of the ESI or that do not exist as part of the original metadata of the ESI. For ESI  
11 that is not easily converted to image format, such as Excel and Access files, the parties will,  
12 upon good cause shown, provide a reasonable amount of such information in native format if  
13 it exists. No party has an obligation to make its production text-searchable; however, if a  
14 party's documents already exist in text-searchable format independent of this litigation, or are  
15 converted to text-searchable format for use in this litigation, including for use by the  
16 producing party's counsel, then such documents shall be produced in the same text-  
17 searchable format at no cost to the receiving party.

18 Each ESI production will be provided as multi-page TIFF images. Along with the  
19 images, an OPT format load file (typically used in Concordance/iPRO) will be provided and  
20 the volume name included in the file path. The load file will include document breaks  
21 indicating the beginning and ending bates numbers for each document. Document level OCR  
22 shall be provided as a single-page text file in ASCii format. Each text file should bear the  
23 same name as the Production number of the first page of each document. The multi-page  
24 TIFF images should appear in a folder in a numbered format. The OCR text files should be  
25 contained in a separate folder titled "OCR."

26 **2. No Backup Restoration Required.** Absent a showing of good cause, no party need  
27 restore any form of media upon which backup data is maintained in a party's normal or  
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1 allowed processes, including but not limited to backup tapes, disks, SAN, and other forms of  
2 media, to comply with its discovery obligations in the present case.

3       **3. Voicemail and Mobile Devices.** Absent a showing of good cause, voicemails,  
4 PDAs and mobile phones are deemed not reasonably accessible and need not be collected and  
5 preserved.

6       **4. ESI Production Requests.**

7       A. For ESI, General ESI production requests under Federal Rules of Civil Procedure  
8 34 and 45, or compliance with a mandatory disclosure order of this court, shall not include  
9 electronic mail or other forms of electronic correspondence (collectively, "E-Mail"). To  
10 obtain the production of E-Mail, a party must propound specific production requests directed  
11 at e-mail or the other forms of electronic correspondence.

12       B. By February 3, 2014, each side will produce a specific listing of likely E-Mail  
13 custodians, along with each custodian's job title and job description. The listing shall also  
14 include a specific identification of the E-Mail custodians believed to represent a  
15 comprehensive source of relevant E-Mail in view of the pleaded claims, defenses, and  
16 contentions. This identification shall include a description of why the identified custodians  
17 are believed to represent a comprehensive source of relevant E-Mail in view of pleaded  
18 claims, defenses, and contentions, including a description of why additional E-Mail  
19 custodians would be cumulative. Each side may also propound up to five written discovery  
20 requests and take one deposition to identify the proper custodians, proper search terms, and  
21 proper time frame for E-Mail production requests.

22       C. E-Mail production requests can be made beginning on February 10, 2014.

23       D. E-Mail production requests shall identify the custodian, search terms, and time  
24 frame. The parties shall cooperate to identify the proper custodians, proper search terms, and  
25 proper time frame. The requesting party shall seek e-mail from no more than five custodians  
26 per side. Each requesting party shall limit its E-Mail production requests to a total of eight  
27 search terms per custodian, but the producing party will allow two additional search terms if  
28 the iterative negotiation process results in the need for a total of ten search terms. The search

1 terms shall be narrowly tailored to particular issues. Indiscriminate terms, such as the  
2 producing company's name or its product name, are inappropriate unless combined with  
3 narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive  
4 combination of multiple words or phrases (e.g., "computer" and "system") narrows the search  
5 and shall count as a single search term. A disjunctive combination of multiple words or  
6 phrases (e.g., "computer" or "system") broadens the search, and thus each word or phrase  
7 shall count as a separate search term unless they are variants of the same word. Use of  
8 narrowing search criteria (e.g., "and," "but not," "w/x") is encouraged to limit the production  
9 and shall be considered when determining whether to shift costs for disproportionate  
10 discovery.

11 E. The parties may jointly agree to modify these limits without the court's leave. The  
12 court shall consider contested requests for additional or fewer custodians and requests for  
13 additional or fewer search terms per custodian, upon showing a distinct need based on the  
14 size, complexity, and issues of this specific case.

15 **5. Inadvertent Production.** Pursuant to Federal Rule of Evidence 502(d), the  
16 inadvertent production of a privileged or work product protected ESI is not a waiver in the  
17 pending case or in any other federal or state proceeding. The mere production of ESI in a  
18 litigation as part of a mass production shall not, by itself, constitute a waiver for any purpose.

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